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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/581,270	04/25/2007	Reto Luginbuehl	00366.000211.	3143

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FITZPATRICK CELLA HARPER & SCINTO
1290 Avenue of the Americas
NEW YORK, NY 10104-3800

EXAMINER

MONTANO, MELISSA ANN

ART UNIT	PAPER NUMBER
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3738

MAIL DATE	DELIVERY MODE
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01/12/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Response to Arguments

1. Applicant's arguments filed 12/23/2009 have been fully considered but they are not persuasive.
2. With regard to applicant's argument that Brown does not recognize or suggest a highly orientation of the channels, the examiner disagrees. The term oriented is defined as adjust or located in relation to surroundings or circumstances. Brown includes pores shown extending through the interphase region (body component; 26) of the implant, which inherently meet the limitation of a number of highly oriented hollow bodies, as claimed by applicant. The limitation that more than 50% of the highly oriented hollow bodies are aligned perpendicularly to a plane of an articulating surface of the base component is broad. Applicant does not provide clarification of the plane or the articulating surface claimed and therefore, the examiner maintains the obviousness rejection under 35 USC 103(a) on the grounds that it would have been obvious to one having ordinary skill in the art to try various orientations of hollow bodies/pores, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980). The examiner also notes that the oriented hollow bodies taught by Brown are shown to be aligned perpendicularly to at least one plane of an articulating surface of the base component, as claimed by applicant.
3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to MELISSA MONTANO whose telephone number is

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(571)270-5785. The examiner can normally be reached on Monday-Friday 8:00AM-5:00PM EDT.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Corrine McDermott can be reached on (571)272-4754. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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